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117TH CONGRESS 2D SESSION	<b>S.</b> _	
To amend sections 80°	1 and 804 of	title 5. Unite

To amend sections 801 and 804 of title 5, United States Code, to include guidance issued by non-agencies, and for other purposes.

## IN THE SENATE OF THE UNITED STATES

Mr. Sullivan introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

## A BILL

To amend sections 801 and 804 of title 5, United States Code, to include guidance issued by non-agencies, and for other purposes.

- 1 Be it enacted by the Senate and House of Representa-
- 2 tives of the United States of America in Congress assembled,
- 3 SECTION 1. SHORT TITLE.
- 4 This Act may be cited as the "Checks and Balances
- 5 Act".
- 6 SEC. 2. GUIDANCE ISSUED BY NON-AGENCIES.
- 7 Section 801 of title 5, United States Code, is amend-
- 8 ed by adding at the end the following:
- 9 "(h) For purposes of Congressional review under this
- 10 chapter—

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1	"(1) guidance that directs the operations of a
2	Federal agency and is issued by an entity with au-
3	thority delegated by the President shall be consid-
4	ered a rule; and
5	"(2) the entity that issues the guidance is re-
6	quired to comply with this chapter in the same man-
7	ner as a Federal agency.".
8	SEC. 3. DEFINITIONS.
9	Section 804 of title 5, United States Code, is amend-
10	ed—
11	(1) by striking paragraph (1) and inserting:
12	"(1) The term 'Federal agency'—
13	"(A) means any agency as that term is de-
14	fined in section 551(1); and
15	"(B) includes a task force or similar entity
16	composed of members of an agency."; and
17	(2) by adding at the end the following:
18	"(4) The term 'guidance'—
19	"(A) means an agency statement of gen-
20	eral applicability (other than a rule that has the
21	force and effect of law promulgated in accord-
22	ance with the notice and comment procedures
23	under section 553) that—
24	"(i) does not have the force and effect
25	of law; and

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1	"(ii) is designated by an agency offi-
2	cial as setting forth—
3	"(I) a policy on a statutory, reg-
4	ulatory, personnel, or technical issue;
5	or
6	"(II) an interpretation of a statu-
7	tory or regulatory issue, including a
8	personnel issue; and
9	"(B) may include—
10	"(i) a memorandum;
11	"(ii) a notice;
12	"(iii) a bulletin;
13	"(iv) a directive;
14	"(v) a letter;
15	"(vi) a no-action letter; and
16	"(vii) any combination of the items
17	described in clauses (i) through (vi).".